

17 February 1858. 21 VICT.



(Ireland.)

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B I L L

FOR

Shortening the Time of Prescription in certain Cases in Ireland.

WHEREAS the Expression "Time immemorial," or "Time
" whereof the Memory of Man runneth not to the con-
" trary," is now by the Law of Ireland in many Cases
considered to include and denote the whole Period of Time from
5 the Reign of King Richard the First, whereby the Title to Matters
that have been long enjoyed is sometimes defeated by showing
the Commencement of such Enjoyment, which is in many Cases
productive of Inconvenience and Injustice: For Remedy thereof,
he it enacted by the Queen's most Excellent Majesty, by and with
10 the Advice and Consent of the Lords Spiritual and Temporal, and
Commons, in this present Parliament assembled, and by the Au-
thority of the same, That no Claim which may be lawfully made
at the Common Law, by Custom, Prescription, or Grant, to any
Right of Common or other Profit or Benefit to be taken and enjoyed
15 from or upon any Land of our Sovereign Lady the Queen, Her
Heirs or Successors, or of any Ecclesiastical or Lay Person, or Body
Corporate, except such Matters and Things as are herein specially
provided for, and except Tithes, Rent, and Services, shall, where
such Right, Profit, or Benefit shall have been actually taken and
20 enjoyed by any Person claiming Right thereto without Interruption
[Bill 23.]

Preamble.

Claims to
Right of
Common and
other Profits
a prendre
not to be
defeated
after Thirty
Years En-
joyment by
showing the
Commence-
ment.

for

After Sixty
Years En-
joyment the
Right to be
absolute,
unless had
by Consent
or Agree-
ment.

for the full Period of *Thirty Years*, he defeated or destroyed by showing only that such Right, Profit, or Benefit was first taken or enjoyed at any Time prior to the Period of *Thirty Years*, but nevertheless such Claim may be defeated in any other Way by which the same is now liable to be defeated; and when such Right, Profit, or Benefit shall have been so taken and enjoyed as aforesaid for the full Period of *Sixty Years*, the Right thereto shall be deemed absolute and indefeasible, unless it shall appear that the same was taken and enjoyed by some Consent or Agreement expressly made or given for that Purpose by Deed or Writing.

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In Claims of
Right of
Way or other
Easement the
Period to be
Twenty
Years and
Forty Years.

II. No Claim which may be lawfully made at the Common Law, by Custom, Prescription, or Grant, to any Way or other Easement, or to any Watercourse, or the Use of any Water, to be enjoyed or derived upon, over, or from any Land or Water of our said Lady the Queen, Her Heirs or Successors, or being the Property of any Ecclesiastical or Lay Person, or Body Corporate, when such Way or other Matter as herein last before mentioned shall have been actually enjoyed by any Person claiming Right thereto without Interruption for the full Period of *Twenty Years*, shall be defeated or destroyed by showing only that such Way or other Matter was first enjoyed at any Time prior to such Period of *Twenty Years*, but nevertheless such Claim may be defeated in any other Way by which the same is now liable to be defeated; and where such Way or other Matter as herein last before mentioned shall have been so enjoyed as aforesaid for the full Period of *Forty Years*, the Right thereto shall be deemed absolute and indefeasible, unless it shall appear that the same was enjoyed by some Consent or Agreement expressly given or made for that Purpose by Deed or Writing.

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Claim to the
Use of Light
enjoyed for
Twenty
Years in-
defeasible un-
less shown
to have been
by Consent.

III. When the Access and Use of Light to and for any Dwelling House, Workshop, or other Building shall have been actually enjoyed therewith for the full Period of *Twenty Years* without Interruption, the Right thereto shall be deemed absolute and indefeasible, any local Usage or Custom to the contrary notwithstanding, unless it shall appear that the same was enjoyed by some Consent or Agreement expressly made or given for that Purpose by Deed or Writing.

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Before-men-
tioned Pe-
riods to be
deemed those
next before
Suits for
Claims to
which such
Periods
relate.

IV. Each of the respective Periods of Years herein-before mentioned shall be deemed and taken to be the Period next before some Suit or Action wherein the Claim or Matter to which such Period may relate shall have been or shall be brought into question, and that no Act or other Matter shall be deemed to be an Interruption, within the Meaning of this Statute, unless the same shall have been or shall be submitted to or acquiesced in for *One Year* after the Party inter-rupted

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rupted shall have had or shall have Notice thereof, and of the Person making or authorizing the same to be made.

V. In all Actions and other Pleading, wherein the Party claiming may now by Law allege his Right generally, without averring the Existence of such Right from Time immemorial, such general Allegation shall still be deemed sufficient, and if the same shall be denied, all and every the Matters in this Act mentioned and provided, which shall be applicable to the Case, shall be admissible in Evidence to sustain or rebut such Allegation; and in all Pleadings wherein before the passing of this Act it would have been necessary to allege the Right to have existed from Time immemorial, it shall be sufficient to allege the Enjoyment thereof as of Right by the Occupiers of the Tenement in respect whereof the same is claimed for and during such of the Periods mentioned in this Act as may be applicable to the Case, and without claiming in the Name or Right of the Owner of the Fee, as is now usually done; and if the other Party shall intend to rely on any Proviso, Exception, Incapacity, Disability, Contract, Agreement, or other Matter herein-before mentioned, or on any Cause or Matter of Fact or of Law not inconsistent with the simple Fact of Enjoyment, the same shall be specially alleged and set forth in answer to the Allegation of the Party claiming, and shall not be received in Evidence on any general Traverse or Denial of such Allegation.

In Actions on the Case the Claimant may allege his Right generally, as at present.

In Pleadings where Party need to allege his Claim from Time immemorial, the Period mentioned in this Act may be alleged, and Exceptions or other Matters to be replied specially.

VI. In the several Cases mentioned in and provided for by this Act, no Presumption shall be allowed or made in favour or support of any Claim, upon Proof of the Exercise or Enjoyment of the Right or Matter claimed for any less Period of Time or Number of Years than for such Period or Number mentioned in this Act as may be applicable to the Case and to the Nature of the Claim.

Restricting the Presumption to be allowed in support of Claims herein provided for.

VII. Provided always, That the Time during which any Person otherwise capable of resisting any Claim to any of the Matters before mentioned shall have been or shall be an Infant, Idiot, non compos mentis, Feme Covert, or Tenant for Life, or during which any Action or Suit shall have been pending, and which shall have been diligently prosecuted, until abated by the Death of any Party or Parties thereto, shall be excluded in the Computation of the Periods herein-before mentioned, except only in Cases where the Right or Claim is hereby declared to be absolute and indefeasible.

Proviso for Infants, &c.

VIII. Provided also, That when any Land or Water upon, over, or from which any such Way or other convenient Watercourse or Use of Water shall have been or shall be enjoyed or derived hath been

What Time to be excluded in computing

the Term of
Forty Years
appointed by
this Act.

been or shall be held under or by virtue of any Term of Life, or any Term of Years exceeding *Three* Years from the granting thereof, the Time of the Enjoyment of any such Way or other Matter as herein last before mentioned, during the Continuance of such Term, shall be excluded in the Computation of the said Period of *Forty* Years in case the Claim shall within *Three* Years next after the End or sooner Determination of such Term be resisted by any Person entitled to any Reversion expectant on the Determination thereof.

To extend
to Ireland
only.

IX. This Act shall extend to Ireland only.

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Commence-
ment of Act.

X. This Act shall commence and take effect on the *First Day of Michaelmas Term* now next ensuing.

Prescription (Ireland).

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B I L L

For shortening the Time of Prescription
in certain Cases in Ireland.

(Prepared and brought in by
Mr. Stowe and Mr. Baines.)

Ordered, by The House of Commons, to be Printed,
17 February 1837.

[Bill 29.]

Under 1 c2.